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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DIANA R. SAYEGH, ANTHONY MATIAS, MARLENE  
HESLOP, ISSA THALGY, JACQUELINE THALGY,  
KRISHENDAY MARJAH, WENDY RAM, TEELUCK RAM,  
MARY BOSTWICK, TINA BOSTWICK, ANTON LUKAJ,  
MICHAEL MATIAS, AMAYRA PEREZ, JASON K.  
RAMPERSAD, Jr., an infant by his mother and best friend  
KRISHENDAYE MARJAH and DELFIM HEUSLER,

Plaintiffs,

-against-

PHILIP AMICONE, individually, EDMUND  
HARTNETT, individually, JOHN A. LISZEWSKI,  
individually, JOHN FLEMING, individually, DAVID  
SIMPSON, individually, LAWRENCE A. PORCARI,  
Jr., CITY OF YONKERS, New York, PAUL WOOD,  
individually, POLICE OFFICERS JOHN DOES #1 to  
#20, individually, and SANITATION WORKERS #1 to  
#20, individually,

Defendants.

ECF Case

07 Civ. 8048 (CLB)

**NOTICE OF  
MOTION TO DISMISS**

**PLEASE TAKE NOTICE**, that upon the Declaration of Andrew B. Zinman dated October 15, 2007, the Declaration of Andrew B Zinman and Memorandum of Law both dated September 26, 2007, and all other papers filed in this proceeding, Defendant Lawrence A. Porcari, Jr. ("Porcari") will move before Honorable Charles L. Brieant, United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, New York, on November 9, 2007 at 10 a.m. or as soon thereafter as counsel can be heard, for an order

dismissing Plaintiffs' Complaint dated September 10, 2007 (the "Complaint") as and against Porcari pursuant to Federal Rule of Civil Procedure 12(b)(6) upon the ground that the Complaint fails to state a cause of action upon which relief can be granted because Porcari is entitled to absolute and/or qualified immunity.

Dated: White Plains, New York  
October 15 2007

THACHER PROFFITT & WOOD LLP  
*Attorneys for Defendants*

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